



2827

IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE

PATENT APPLICATION

H. Scott Fetterman
Vivian Ryan

CASE 7-17

Serial No. 10/007904

Group Art Unit 2829

Filed October 31, 2001

Examiner E.T. Pert

Title Stress Migration Test Structure And Method Therefor

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

SIR:

Enclosed is an amendment in the above-identified application.

NO ADDITIONAL FEE REQUIRED

In the event of non-payment or improper payment of a required fee, the Commissioner is authorized to charge or to credit **Deposit Account No. 501735** as required to correct the error.

Respectfully,

David L. Smith, Attorney
Reg. No. 30592
610-712-3784.

Date: November 22, 2002

Docket Administrator
Agere Systems Inc.
4 Connell Drive, Room 4U-533C
Berkeley Heights, New Jersey 07922-2747

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RESPONSE

In response to the Office Action of October 30, 2002, having a one-month shortened statutory period for response set to expire November 30, 2002, please enter the following remarks.

Remarks

Reconsideration of the application is respectfully requested.

In the Office Action dated October 30, 2002, the Examiner required restriction to either Invention I, defined by claims 1 through 33, or Invention II, defined by claims 34 through 41, stating that Inventions I and II are distinct.

Applicants hereby elect, with traverse, Invention I as defined by claims 1 through 33.

The Examiner indicates Inventions I and II are related as product and process of use. Applicants respectfully disagree with the Examiner's argument that the distinct nature of the two inventions is demonstrated by "In the instant case, the product as claimed in claim 1, for example, could be used without passing electrical current as required by claim 34, by observing physical migration with an electron microscope, for example."

In stating, "the product as claimed in claim 1, for example, could be used without passing electrical current as required by claim 34, by observing physical migration with an electron microscope" obviates the very utility of the invention. There is no need for a separate structure in which to look for "physical migration" as one could use the circuits elsewhere on a wafer. It is respectfully submitted the Examiner has not established a *prima facie* case that the invention as claimed in claims 1-33 (Invention I) can be used in a materially different process than the claimed process.

5/ Ebert
S. Mailey
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